



VARIANCE

Pursuant to Section 25143, Chapter 6.5, Division 20 of the Health and Safety Code (HSC), the California Department of Toxic Substances Control (DTSC) grants a variance to the applicant below for wastes considered hazardous solely because of their contaminant concentrations and as further specified herein:

1) Identifying information:

OWNER/OPERATOR

XXXXXXXXXXXXXXXXXX, District Director
State of California
Department of Transportation (Caltrans), District X
XXXXXXXXXXXXXXXXXX Avenue
P.O. Box XXXXXXXX
XXXXXXXXXXXX, California 9XXXX-XXXX

2) TYPE OF VARIANCE: Generation, Manifest, Transportation,
Storage and Disposal

_____ Reissue Previous Variance

3) DATE ISSUED: xxxxxxxx, 2000 EXPIRATION DATE: xxxxxxxx, 2005

4) Other Applicable Statutes and Regulations. The hazardous waste that is the subject of this variance is fully regulated under HSC, Section 25100, et seq. and Title 22 of the California Code of Regulations (CCR) Division 4 except as specifically identified in Section II of this variance.

This variance may be modified or revoked at any time by DTSC pursuant to HSC Section 25143(d).

DTSC hereby grants a variance solely from the requirements specified herein in accordance with all terms and conditions specified herein.

XXXXXXXXXXXXXXXXXX, Chief
Permitting Division
Hazardous Waste Management Program
Department of Toxic Substances Control

1. FINDINGS/DETERMINATIONS

1.1 DTSC has determined that the variance applicant meets the requirements set forth in HSC Section 25143 for a variance from specific regulatory requirements as outlined in section 2 of this variance. The specific findings and determinations made by DTSC are as follows:

1.1.1 Caltrans intends to excavate, stockpile, transport, bury and cover large volumes of soil associated highway construction projects throughout the State. In the more urbanized highway corridors this soil is contaminated with lead, primarily due to historic emissions from automobile exhausts. In situ testing has shown the uppermost two feet of soil have been found to contain concentrations of lead in exceed regulatory thresholds found in Chapter 6.5 of the HSC. However, DTSC has prepared a risk assessment that shows that soil contaminated with low concentrations of lead can be managed in a way that presents no significant risk to human health and the environment.

1.1.2 The lead-contaminated soils will be placed only in Caltrans rights of way. Based on concentration levels, the wastes will be covered with a minimum thickness of one (1) foot of non hazardous soil or asphalt cover and always be five (5) feet above the highest groundwater elevation. Caltrans will assure that proper health and safety procedures will be followed for workers. This includes any persons engaged in maintenance work in areas where the waste has been buried and covered.

1.2 DTSC finds and requires that the lead contaminated soil excavated, stockpiled, transported, buried and covered is a non-RCRA hazardous waste, and that the hazardous waste management activity is insignificant as a potential hazard to human health and safety and the environment, when managed in accordance with the conditions, limitations and other requirements specified in the variance.

2. PROVISIONS SUBJECT TO VARIANCE

2.1 DTSC, subject to all terms and conditions herein waives

the following requirements for the following specific hazardous waste management requirements of Title 22,CCR, sections 66264.250 through 66264.259, 22 CCR 66268.1 through 66268.9, 22 CCR 66262.10, 22 CCR 66262.12, 22 CCR 66262.20, 22 CCR 66262.30 through 66262.34, 22 CCR 66262.40 through 66262.42, 22 CCR 66263.10 through 66263.18 and 22 CCR 66263.20 through 66263.23 for the generation, transportation, manifesting, storage and land disposal of hazardous waste provided all other requirements of this variance are complied with at Caltrans construction projects in Caltrans District ???.

3. SPECIFICATIONS OF THE CONDITIONS, LIMITATIONS, OR OTHER REQUIREMENTS

3.1 The owner/operator shall be subject to the following conditions (based on the attached memorandum):

a) Caltrans shall manage all soil contaminated with lead with contaminant concentrations such that it is considered a hazardous waste pursuant to HSC 25117 and 22 CCR, Div 4.5, Chapter 11 as hazardous waste unless the contaminant concentrations and management practices meet the following conditions:

1. Soils containing 500 ug/l extractible lead or less (based on a modified waste extraction test using deionized water as the extractant) and 350 ppm or less total lead may be used as fill provided that the lead-contaminated soils are placed a minimum of five (5) feet above the maximum water table elevation and covered with at least one (1) foot of non hazardous soil. HSC section 25157.8 limits total lead concentration to 350 ppm (mg/kg). This section of statute will expire on July 1, 2003 unless a later enacted statute repeals or extends the date. If section 25157.8 is repealed or expires the risk based limit will be 1496 mg/kg. If the lead limits in section 25157.8 are amended, or if any other statute or regulation establishes lead limits lower than the above risk based limits, Caltrans shall comply with those limits.

2. Soils containing more than 500 ug/l and less than 50 mg/l extractible lead (based on a modified waste extraction test using deionized water as the extractant) and less than 350 ppm total lead may be used as fill

provided that the lead-contaminated soils are placed a minimum of five (5) feet above the maximum water table elevation and protected from infiltration by a pavement structure which will be maintained by Caltrans. Statute section 25157.8 limits total lead concentration to 350 ppm (mg/kg). This section will expire on July 1, 2003 unless a later enacted statute repeals or extends the date. If section 25157.8 is repealed or expires the risk based limit will be more than 1496 mg/kg and less than 3979 mg/kg. If the lead limits in section 25157.8 are amended, or if any other statute or regulation establishes lead limits lower than the above risk based limits, Caltrans shall comply with those limits.

3. Contaminated soils with a pH < 5.0 shall only be used as fill material under the paved portion of the roadway.

b) Definition: For the purposes of this variance, waste that meets the above criteria, shall be referred to as "lead-contaminated soil(s)".

c) Caltrans will implement appropriate health and safety procedures to protect its employees and the public, and to prevent or minimize exposure to potentially hazardous substances. A project-specific health and safety plan must be prepared and implemented. The monitoring and exposure standards shall be based on Construction Standards in CCR section 1532.1.

d) All lead-contaminated soil that cannot be buried and covered within a Caltrans project shall be managed as a hazardous waste.

e) Lead-contaminated soil will not be moved outside the specified corridor boundaries (see section r below).

f) The lead-contaminated soil shall not be buried in areas where they will be in contact with groundwater or surface water.

g) Lead-contaminated soil shall be buried and covered only in locations that are protected from erosion resulting from storm water run-on and run-off.

h) The lead-contaminated soil shall be buried and covered in manner that will prevent accidental or deliberate breach of

the asphalt, concrete, and/or cover soil.

I) The presence of lead-contaminated soil will be incorporated into the projects' as-built drawings. The as built drawings shall be annotated with the location, representative analytical data, and volume of lead-contaminated soils. The as-built drawings shall also state the depth of the cover. These as-built drawings shall be retained by Caltrans until its rights-of-way or property ownership are relinquished.

j) Caltrans shall ensure that no other wastes, other than the lead-contaminated soils, are placed in the burial areas.

k) Lead-contaminated soil shall not be buried within ten (10) feet of culverts or locations subject to frequent worker exposure.

l) Excavated lead-contaminated soil not placed into the designated area (fill area, roadbed area) by the end of the working day shall be stockpiled and covered with sheets of polyethylene or at least one foot of non hazardous soil. The lead contaminated soil while stockpiled or under transport shall be protected from contacting surface water and being dislodged or transported by wind or storm water. The stockpile covers shall be inspected at least once a week and within 24 hours after rainstorms.

m) Caltrans shall ensure that all stockpiling of lead contaminated soil remains within the specified corridor. Stockpiling of lead-contaminated soil outside the area of contamination is in direct violation of land disposal restrictions and is prohibited.

n) Caltrans shall conduct confirmatory sampling, if appropriate, of any stockpile area after removal of the lead-contaminated soil to ensure that contamination has not been left behind or has not migrated from the stockpiled material to the surrounding soils. Caltrans shall ensure that test results are kept with Caltrans project records located at the District office or a subsequent permanent location and are available to DTSC upon request.

o) Caltrans shall stockpile lead-contaminated soil only on high ground (i.e. no sump areas or low points) which will not be affected by surface water run-on or run-off.

p) Caltrans shall not stockpile soil in an environmentally sensitive area.

q) Caltrans shall ensure that run-off which has come into contact with stockpiled lead-contaminated soils will not flow to storm drains, inlets, or waters of the state.

r) Caltrans may move lead-contaminated soil from one Caltrans project to another Caltrans project as long as the lead-contaminated soil remains within the Caltrans designated corridor. Caltrans shall record this movement of lead-contaminated soil by using a bill of lading. The bill of lading must contain 1) US DOT description including shipping name, hazard class and ID number, 2) handling codes, 3) quantity of material, 4) volume of material and, 5) any specific handling instructions. The bill of lading shall be referenced in and kept on file with the project as built drawings. During transportation on the traveled way lead-contaminated soil must be kept covered.

s) For each specific corridor where this variance is to be implemented, all of the following information will be submitted in writing to DTSC at least five (5) days before construction begins:

1. a plan drawing designating the limits of the corridor where lead-contaminated soils will be excavated, stockpiled, buried and covered;
2. a list of the Caltrans projects that the corridor encompasses;
3. a list of Caltrans contractors for each project that will be conducting any phase of work affected by this variance;
4. duration of corridor construction;
5. location where sampling and analytical data used to make lead concentration level determinations are kept (e.g. a particular Caltrans project file);
6. name and phone number (please include area code) of project resident engineer;
7. location where Caltrans and contractor health and

safety records are kept;

8. location of project special provisions (including page or section number) for soil excavation, transportation, stockpile, burial and placement of cover material;

9. location of project drawings (including drawing page number) for soil excavation, burial and placement of cover in plan and cross section (For example, "The project plans are located at the resident engineer's office located at 5th and Main Streets, City of Fresno,. See pages xxxxx of contract xxxx");

10. if a Caltrans project within the corridor is added, changed or deleted, Caltrans must update the information provided to DTSC five (5) days before construction begins; and

11. The type of environmental document for each project, date of adoption, and where the document is available for review. Prior to finalizing the environmental document for a project, Caltrans shall comply with the following:

A. A copy of the Notice of Exemption for any project shall be submitted to the DTSC Headquarters Project Manager within five (5) days of signing.

B. A copy of the initial study and Proposed Negative Declaration for any project shall be submitted to the DTSC Headquarters Project Manager at the beginning of the formal public notice period.

C. A copy of the Notice of Preparation for any project shall be submitted to the DTSC

t) Changes in location of lead-contaminated soil placement, quantities or protection measures (field changes) will be noted in the resident engineer's project log within five (5) days of the field change.

u) Caltrans shall ensure that field changes are in compliance with the requirements of this variance.

v) If areas covered by the terms of this variance are sold, relinquished or abandoned (including roadways), all future property owners shall be notified in writing in advance by

Caltrans of the requirements of this variance. A copy of such a notice shall be sent to DTSC and contain the corridor location and project. Future property owners will be subject to the same requirements as Caltrans. DTSC retains the right to revise, suspend or revoke this variance pursuant to HSC 25143 upon a change of ownership or at any other time.

w) For the purposes of informing the public about instances where the variance is implemented, Caltrans shall:

1. Maintain current fact sheets at all Caltrans resident engineer offices and the Caltrans District ??? office. Caltrans shall make the fact sheets available to anyone expressing an interest in variance-related work.

2. Maintain a binder(s) containing copies of all reports submitted to DTSC (see paragraph 3.1 (s) above) at the District ??? office. Caltrans shall ensure that the binders are readily accessible to the public.

3. As additional projects are identified:

- (a) Notify the public via a display advertisement in a newspaper of general circulation in that area.

- (b) Update and distribute the fact sheet to DTSC's mailing list and repository locations.

x) Caltrans implementation of this variance shall comply with all applicable state policies for water quality control, water quality control plans, waste discharge requirements (including storm water permits), and others issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

y) This variance is only applicable to soil considered hazardous because of aerially-deposited lead contamination. The variance is not applicable to any other hazardous waste.

z) Lead-contaminated soil may only be buried in areas that access is limited or where lead-contaminated soil is covered and contained by a pavement structure.

aa) Dust containing lead-contaminated soil must be controlled. Water or dust palliative may be applied to control dust. If visible dust migration occurs, all excavation, stockpiling and

truck loading and burying must be stopped. The granting of this variance confers Caltrans no relief from compliance with the laws and regulations or requirements from any local air district or the California Air Resources Board.

bb) Sampling and analysis is required to show the lead contaminated soil meets the variance criteria specified in a). All sampling and analysis must be done according to USEPA SW-846.

3.2 All correspondence shall be directed to the following DTSC office:

XXXXXXXXXX, Chief
Permitting Division, DTSC
400 P Street, 4th Floor
P.O. Box 806
Sacramento, CA 95812-0806

4. DISCLAIMER

4.1 The issuance of this variance does not relieve Caltrans of the responsibility for compliance with Division 20, Chapter 6.5, HSC or the regulations adopted thereunder, or any other laws and regulations other than those specifically identified in section

2 of this variance and subject to all terms and conditions herein. The granting of this variance confers no relief from compliance with other federal, state or local requirements other than specifically provided herein.

4.2 The issuance of this variance does not release Caltrans from any liability associated with the handling of hazardous waste, except as specifically provided herein and subject to all terms and conditions of this variance.

5. VARIANCE REVOCATION

5.1 This variance is subject to review at the discretion of DTSC and may be revoked by DTSC at any time pursuant to Health and Safety Code section 25143.

6. CEOA DETERMINATION

6.1 Negative Declaration adopted on ?????????? 2000.

Draft